



BREWERS
ASSOCIATION

Brewers Association of Australia & New Zealand Inc

**Submission to the
Competition Policy Review
Issues Paper**

27 June 2014

The Brewers Association of Australia and New Zealand (Brewers Association) welcomes the opportunity to provide comment on the Competition Policy Review Issues Paper.

The Brewers Association represents the major brewers in Australia with the core purpose to celebrate beer, its contribution to the economy and to social wellbeing through responsible consumption.

Australian members of the Brewers Association comprise Carlton & United Breweries, Lion, and Coopers. Members of the Brewers Association produce and distribute around 95% of beer produced in Australia.

The Brewers Association is committed to the promotion of beer as an enjoyable and refreshing lower-alcohol alternative to other alcohol categories. Beer is a significant contributor to the economy and also provides a number of social benefits.

Scope of Submission

The Brewers Association limits its submission to a particular issue that relates to regulatory impediments as covered in Chapter 2 of the Issues Paper of 14 April 2014.

Parallel Imports

Parallel importation of goods into Australia (including consumable goods) has been debated for many years and has a variety of consequences. The Brewers Association does not deny some of those consequences are positive whilst some are undeniably negative for consumers and industry. On balance, parallel importation policy should err on the side of the market being as open as possible. However, there are issues with the parallel importation of consumables that the Brewers Association believes are important to consider in maintaining consumer health and safety, a level playing field for industry participants and brand and product integrity (in essence – to maintain a healthy competitive market).

Brewers Association members invest heavily in their products, their brands, their supply chains, their customers relationships, their reputation and the market in which they are doing business (including through sponsorships, local advertising campaigns and employment). This can contrast with some parallel importation activity, which can be opportunistic with no particularly loyalty or obligation to any particular brand, product or category.

International Beer Brands in the Australian Market

Brewers Association of Australia members takes pride in brewing and distributing great beers in Australia, including local and international beer brands.

Many international beer brands have their own individual philosophies on the best way to distribute their product internationally. Some brands believe that brewing in locations closer to their offshore markets and using local supply chains is best for their beer, while others prefer to brew their beer in one country and then ship it around the world. Both styles have advantages and challenges, and there are many different variables that shape each decision.

All of the international beer brands the Brewers Association Australian members brew locally in Australia have strict quality and taste controls. Our brewers and all brewers outside the beer's country of origin must comply with these controls to ensure there is a consistent brew and taste

This consistency for international beers is only possible because:

1. Recipe & Ingredients

- Each beer is brewed to a unique recipe overseen and audited by the brewer.
- The ingredients used are all approved by the brewer and may be imported.
- The water used is filtered to meet the brewer's requirements and is neutral in taste.

2. Brewery

- The brewing process for each beer is kept the same. Where specialist expertise or equipment is required, this is invested in, or imported, to replicate the same brewing system.

3. Quality Testing

- Each locally brewed international brand is overseen by a highly qualified brewer tied to the international beer brand to ensure it meets the beer's taste specifications.
- Samples are regularly sent to the country of origin for rigorous testing – usually including analytical and taste testing by a Brewer Panel.

Brewing international brands locally has no impact on quality or taste, but has the additional benefits of creating greater demand for employment and investment locally and reducing the impact on the environment.

The Brewers Association members' local brewing operations and direct supply chains for imported beers enable delivery of fresh international beers to the market across all of our brands. This is in stark comparison to some parallel import beers where there can be areas

of unknown information about the origin and journey of the beer. Further, traders in parallel imported stock are under no contractual obligation to care for a brand or product's quality or presentation.

Impact of Parallel Importing

When beer isn't sourced direct from the brand owners, it's not always possible to ensure the product's quality is maintained.

Consumers buying parallel stock often end up with a substandard product because it has entered Australia via an unknown supply chain - usually as a result of product age, packaging quality, freshness and/or exposure to the elements during transportation.

With parallel imports, the freshness of the beer liquid can be compromised by the fact it has to travel long distances, via multiple ports and in the process may be exposed to a variety of temperature extremes and/or sunlight. In contrast, official supply chains are set up to ensure international beers reach the market as quickly as possible and that they travel in the conditions best for the product, in stark comparison to parallel imported beers where information is often unknown about the origin and journey of the beer.

In some cases, parallel imported beer has passed its best before date before it arrives in Australia. Brewers Association members have seen instances where someone within the parallel importation supply chain has covered over that best before date with a new, made up (invented), date. That allows them to sell the stock to retailers but it affects the reputation of the brand where consumers consume it and don't enjoy it (because it is stale).

One of the primary concerns of Brewers Association members is that within the parallel importation supply chain, the manufacturer's genuine lot code is often forcibly removed, replaced with a new, made up (invented), lot code (as there is a requirement in the Food Standards Code in Australia to have its "lot identification". The destruction of the manufacturer's lot code means consumable products cannot be accurately identified in the event of a product recall. It also makes it difficult to identify the source of issues, as a faulty product subjected to lot code removal will not be able to be traced back to a particular batch or manufacturing facility. This represents a self-evident risk to consumer health and safety. However, whilst the current Food Standards Code requirements appear clear, they are not. As the code refers to "lot identification", rather than "manufacturer's lot identification", there has been some confusion between state agencies about whether the invented lot identification is legitimate under the Code, thereby making enforcement difficult due to the uncertainty.

Counterfeit beer is not common in Australia and nor do Brewers Association members believe it will be. However, counterfeit beer issues have arisen in the very recent past and the manufacturer's lot code has been an important tool in distinguishing between genuine and non-genuine product. This shows the value of the manufacturer's lot code over and above the obvious need for it for recall and product integrity purposes.

Another impact of Parallel Importation is the poor presentation or poor packaging of some parallel imported stock. Australians are used to purchasing beer in “six-packs”. However, in some markets, beers are sold in cartons of 24 loosely packed bottles. Therefore, in order to be able to sell this stock in Australia, parallel importers crudely wrap together six beers in plastic or otherwise put them in plain cardboard boxes.



Such poor presentation is completely counter to what these fine international beer brands represent and damages the valuable equity in the brands that their owners have spent so much investing in. Whilst some consumers are prepared to purchase premium products in poor and/or unusual packaging, many are not and simply move to the next brand in the fridge. Lastly, even genuine packaging can be in very poor condition due to the number of movements stock may have been subjected to as well as the time taken and conditions of transit.

Another impact on packaging is the poor visual impression created where lot codes have been destroyed. This can include;

- Codes cut out of cartons.
- Codes scratched off labels.
- Codes grinded off glass.
- Codes crossed off labels.
- Codes scratched off bottle taps.



Consumers purchasing a premium product only to come across such examples are unlikely to have a favourable impression of the brand. It looks instead rather cheap and suspicious.

Brewers Association members have also seen other labelling irregularities, such as the examples below, which either deny consumers information or give the brand a poor look, or both. Some of this information is critical to drink driving considerations, such as standard drinks information.

- Product with no labels.
- Product with illegible labelling.

- Product with erroneous labelling.
- Product with no Standard Drinks information.

It is obviously cheaper not to have to pay for quality labels and accurate regulatory advice and therefore parallel importers labelling their products incorrectly have an unfair advantage over suppliers investing heavily in ensuring their products comply with all relevant regulations.

Another concern for brand owners, which is less a regulatory issue than lot code removal or non-compliant labelling, is the variety of packaging configurations of their goods which appear in a market without its control. For example, a brand owner may have five different packaging configurations for the Australian market but also see out in the Australia market several other versions which were never intended to be in the Australian market that have been parallel imported in, such as a 3 pack for one market, a certain promotional pack for another market and a loosely packed carton meant for another market again. These inconsistencies are confusing for consumers and negatively impact brand equity and perceptions of quality.

Implications of a Rise in Parallel Imports

Our Association members are receiving more consumer complaints around some of our locally brewed and imported international brands which have been found to be parallel import products, and this is obviously of concern to us.

As outlined, the primary concerns relate to lot code removal, non-compliant labelling or poor and/or unusual packaging.

There are also health risks as some of these products have been found to be counterfeit and/or brewed to a lesser standard than is permitted in Australia.

Another major concern for the brand owners is the destruction of brand equity. The Brewers Association Australian members invests heavily in building strong and trusted brands for all of its international and local beer brands to assist consumers with their choices - inconsistent product experiences create confusion and have the potential to erode our brand equity over time.

Keg beer generally has a shorter shelf-life so the recent introduction of parallel imported kegs is a particular concern. Accounting for shipping and processing time against this short shelf-life, there is an increased likelihood of the quality of the beer being adversely affected if the importation process is not carefully controlled.

Our members has been affected by parallel importation in the past, however, it has had more impact on us over the past two years with the rising Australian dollar making the

option more viable. Our members have also increased its investment in the rights to distribute and produce a number of significant international beer brands.

Parallel importation does have an impact on the various Association members' sales and profitability but what is really concerning to us and our international brand partners is the potential long term damage that parallel imports can do to the reputation of our brands. In particular:

- **Commercial:** In addition to distribution partnerships, BA members have invested significantly in building the operational capability and capacity to brew a number of international brands locally in Australia. Currently these brands include Lion Brands - Heineken, Guinness, Kilkeny, Stella Artois, Becks and Kirin, CUB brands including Peroni and Miller and Coopers' brands including Carlsberg - parallel importing threatens this investment.
- **Consumer Safety:** There have been a number of incidences where we have investigated products available in the market or that have reached Australia for sale, where the products have been found to be counterfeit and/or brewed to a lesser standard than is permitted for consumption in Australia. The quality of parallel stock's packaging can also be adversely affected from wear and tear due to additional travel and/or opening of the products to remove production codes or to allow for repackaging. This has the potential to be the source of a major risk in itself - should a product be found to pose a health/safety risk this may hinder the ability to undertake a recall (as explained in depth above).
- **Brand Equity:** Parallel imported products generally take an indirect route to market, and can be exposed to a range of temperature extremes. For beer this can adversely affect the flavour and in some cases can speed up the ageing process which in turn leads to a reduced quality product. Brewers Association members invests heavily in building strong and trusted brands for all of its international and local beer brands to assist consumers with their choices - inconsistent experiences create confusion and have the potential to erode our brand equity over time.
- **Keg Beer:** Keg beer generally has a shorter shelf-life so the recent introduction of parallel imported kegs being sold in on-premise venues within Western Australia is a particular concern. Accounting for the shipping and processing time against this short shelf-life, there is an increased likelihood of the quality of the beer being adversely affected if the importation process is not carefully controlled.

Steps Taken By Brewers Association Members

Our members, in consultation with their international brand partners, are working to manage as best they can the impact of parallel imported beer products on our market, in challenging market conditions.

For example, some of the steps taken include:

- Assisting our brand partners with information so that they can investigate the source of poor quality or non-compliant parallel imports and take action where appropriate.
- Offering incentives to local Australian customers to buy stock produced or imported through official channels through the provision of discounts and promotions.
- Working with Australian Customs to identify and prevent counterfeit product.
- Raising awareness of labelling requirements with relevant state regulators to act on breaches, and particularly those that we believe are a significant health and safety risk (such as the practice of lot code removal).

The Brewers Association is seeking:

- An open market with a level playing field (i.e. all participants abiding by the existing rules).
- Existing regulations enforced or clarified to ensure consumer health and safety as well as brand and product integrity.
- Enforcement of current regulations to ensure parallel imports are correctly labelled (particularly with regard to standard drink information) and that the correct best-before is visible.
- Clarification of current regulations to ensure the parallel import supply chain cannot remove, alter or obscure the manufacturer's lot code. Such clarification would do more than anything else to ensure product and brand integrity in the open market, allowing recalls to be conducted and any product faults to be quickly addressed.